

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
DELTA DIVISION**

**TUNICA WEB ADVERTISING, INC., et al.**

**PLAINTIFFS**

**VS.**

**CAUSE NO.: 2:03CV234-SA-JAD**

**TUNICA CASINO OPERATORS  
ASSOCIATION, INC., et al.**

**DEFENDANTS**

**ORDER DENYING DEFENDANT’S MOTION IN LIMINE AND FOR PRELIMINARY  
JURY INSTRUCTION**

This cause comes on for consideration on Defendant Barden Mississippi Gaming, LLC’s (d/b/a “Fitzgerald’s Casino and Hotel”) Motion in Limine and for Preliminary Jury Instruction [452]. The Court finds as follows:

Defendants assert that the Court should exclude evidence or any discussion of the May 30, 2001, meeting due to the Fifth Circuit’s ruling. However, the Fifth Circuit only held that the joint rejection of the joint proposal was not unreasonable and further noted that other conduct at that meeting may be found to be concerted action. Thus, the Court **DENIES** Defendant’s Motion in Limine.

Furthermore, Defendant avers that a preliminary instruction should be given to educate the jury on the Fifth Circuit’s prior findings regarding the joint rejection of the joint proposal. The Court opines that this would be meaningless and potentially confusing to the jury. Such an instruction will likely be covered at the conclusion of the case along with the other instructions.

So **ORDERED**, this the 12th day of August, 2008.

**/s/ Sharion Aycock  
U.S. DISTRICT COURT JUDGE**